

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1188

Introduced by Connealy, 16

Read first time January 18, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Indian Child Welfare Act;
2 to amend section 43-1503, Reissue Revised Statutes of
3 Nebraska; to redefine Indian child; and to repeal the
4 original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-1503, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-1503 For the purposes of the Nebraska Indian Child
4 Welfare Act, except as may be specifically provided otherwise, the
5 term:

6 (1) Child custody proceeding shall mean and include:

7 (a) Foster care placement which shall mean any action
8 removing an Indian child from its parent or Indian custodian for
9 temporary placement in a foster home or institution or the home
10 of a guardian or conservator where the parent or Indian custodian
11 cannot have the child returned upon demand, but where parental
12 rights have not been terminated;

13 (b) Termination of parental rights which shall mean
14 any action resulting in the termination of the parent-child
15 relationship;

16 (c) Preadoptive placement which shall mean the temporary
17 placement of an Indian child in a foster home or institution after
18 the termination of parental rights, but prior to or in lieu of
19 adoptive placement; and

20 (d) Adoptive placement which shall mean the permanent
21 placement of an Indian child for adoption, including any action
22 resulting in a final decree of adoption.

23 Such term or terms shall not include a placement based
24 upon an act which, if committed by an adult, would be deemed a
25 crime or upon an award, in a divorce proceeding, of custody to one

1 of the parents;

2 (2) Extended family member shall be as defined by the
3 law or custom of the Indian child's tribe or, in the absence of
4 such law or custom, shall be a person who has reached the age
5 of eighteen and who is the Indian child's grandparent, aunt or
6 uncle, brother or sister, brother-in-law or sister-in-law, niece or
7 nephew, first or second cousin, or stepparent;

8 (3) Indian means any person who is a member of an Indian
9 tribe, or who is an Alaska Native and a member of a regional
10 corporation defined in section 7 of the Alaska Native Claims
11 Settlement Act, 43 U.S.C. 1606;

12 (4) Indian child means an unmarried Indian individual who
13 is under eighteen years of age or an unmarried individual who is
14 under eighteen years of age that an Indian tribe identifies as a
15 child of the tribe's community; any unmarried person who is under
16 age eighteen and is either (a) a member of an Indian tribe or (b)
17 is eligible for membership in an Indian tribe and is the biological
18 child of a member of an Indian tribe;

19 (5) Indian child's tribe means (a) the Indian tribe in
20 which an Indian child is a member or eligible for membership or (b)
21 in the case of an Indian child who is a member of or eligible for
22 membership in more than one tribe, the Indian tribe with which the
23 Indian child has the more significant contacts;

24 (6) Indian custodian means any Indian person who has
25 legal custody of an Indian child under tribal law or custom or

1 under state law or to whom temporary physical care, custody, and
2 control has been transferred by the parent of such child;

3 (7) Indian organization means any group, association,
4 partnership, limited liability company, corporation, or other legal
5 entity owned or controlled by Indians or a majority of whose
6 members are Indians;

7 (8) Indian tribe means any Indian tribe, band, nation,
8 or other organized group or community of Indians recognized as
9 eligible for the services provided to Indians by the secretary
10 because of their status as Indians, including any Alaska Native
11 village as defined in section 3(c) of the Alaska Native Claims
12 Settlement Act, as amended, 43 U.S.C. 1602(c);

13 (9) Parent means any biological parent or parents of an
14 Indian child or any Indian person who has lawfully adopted an
15 Indian child, including adoptions under tribal law or custom. It
16 does not include the unwed father when paternity has not been
17 acknowledged or established;

18 (10) Reservation means Indian country as defined in 18
19 U.S.C. 1151 and any lands, not covered under such section, title to
20 which is either held by the United States in trust for the benefit
21 of any Indian tribe or individual or held by any Indian tribe or
22 individual subject to a restriction by the United States against
23 alienation;

24 (11) Secretary means the Secretary of the Interior;

25 (12) Tribal court means a court with jurisdiction over

1 child custody proceedings and which is either a Court of Indian
2 Offenses, a court established and operated under the code or custom
3 of an Indian tribe, or any other administrative body of a tribe
4 which is vested with authority over child custody proceedings; and

5 (13) Tribal service area means a geographic area in
6 which tribal services and programs are provided to Native American
7 people.

8 Sec. 2. Original section 43-1503, Reissue Revised
9 Statutes of Nebraska, is repealed.